

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/562,349
Filing Date: May 4, 2006
Applicant(s): Ulrich Brochheuser, et al.
Group Art Unit: 3725
Examiner: Debra M. Wolfe
Title: BACKWARD EXTRUSION PROCESS FOR INNER PROFILES
Attorney Docket No. GKNG 1264 PCT (36249-25)

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicants request review of the final rejection in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheets. No more than five (5) pages are provided.

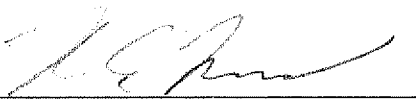
I am the attorney or agent of record.

The Commissioner is authorized to charge any fees due to Deposit Account No. 04-1061.

Respectfully submitted,

Dickinson Wright PLLC
Attorneys for Applicant(s)

Date: February 25, 2008

By: 

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PRE-APPEAL BRIEF

Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This pre-appeal brief is being filed concurrently with a Notice of Appeal and review of the pre-appeal brief is respectfully requested. Applicants believe there are no fees due for this document, however, if any fees are due, the Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061.

REMARKS

The issue is whether claims 1, 8, 10 and 12-15 are unpatentable over Applicants' admitted prior art in view of Ihara et al (2002/0092168). The Examiner asserts that Applicants' admitted prior art discloses the invention substantially as claimed except for a pressure loaded annular die is placed on the second tube end and allowed to return under a pressure load in the opposite direction of the pressing in the forming die. The Examiner then asserts that Ihara et al. teaches a pressure load on the annular die in the opposite direction by way of the natural backward extrusion of the material. The Examiner further makes the unsubstantiated assertion that it would be inherent to one of ordinary skill in the art that the pressure load acting on the annular die must be reduced with increasing return path in order for the inner profile to be formed by the backward extrusion process. Applicants respectfully assert that the natural backward extrusion of material is not the same as the claimed "return of the annular die under a pressure load in the opposite direction of that of pressing in the forming die". In addition, Applicants respectfully assert that the Examiner has erred in asserting that it is inherent to reduce the pressure with increasing return path in order for the inner profile to be formed by the backward extrusion process. The Examiner has provided no basis for this assertion and no basis can be found in either the Applicants' admitted prior art nor in Ihara et al.

Independent claim 1 of the present invention requires and claims "allowing a return of the annular die under a pressure load in the opposite direction of that of pressing in the forming die" and "wherein the pressure load on the annular die is reduced with an increasing return path". Ihara et al. in the cited paragraphs of [52] and [59] speak to the stripper 43 as a carrier member to the punch 42 and can be moved up and down relative thereto. These same paragraphs state

that the stripper 43 preferably does not constrain the *tapered wall face* Wba. Non constraining (and frankly not engaging as the stripper face 43 is disclosed as a tubular body and thereby unable to engage the tapered wall face) is legally not the equivalent or identical to "return of the annular die under a pressure load in the opposite direction of that of pressing in the forming die". Inherently an element cannot be under a pressure load if it is taught as non-constraining which is defined as non-inhibiting or non-restrained. For the annular die to "return under a pressure load" it must exert a pressure-load onto the tube while being moved away from the tube. This is clearly not taught or disclosed by the non-constraining element in Ihara et al. Ihara et al. therefore fails to teach a limitation of the present claimed invention further not disclosed in the admitted prior art.

Secondly, there has been no proposed legal or factual basis for the assertion that it is obvious to reduce the pressure load on the annular die with an increasing return path as additionally claimed. There is no basis in Ihara et al. which simply teaches non-constraining action, not teaching providing a pressure load nor reducing it with increasing return path. There has been provided no insufficient basis for this rejection.

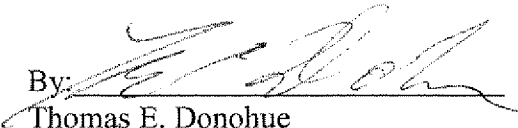
Therefore, it is respectfully asserted that the present invention is not unpatentable over Applicants' admitted prior art in view of Ihara et al (2002/0092168) as suggested by the Examiner. It is respectfully requested the Examiner withdraw the rejection under 35 U.S.C. §103(a). Applicants respectfully assert that claims 1, 8, 10 and 12-15 are in condition for allowance and formal notice is earnestly solicited.

If the Examiner believes that prosecution of the application can be expedited by way of an Examiner's amendment, the Examiner is invited to contact the Applicant(s) attorney at the telephone number listed below.

Respectfully submitted,

Dickinson Wright PLLC
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Date: February 25, 2008

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